IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UNITED INDIA INSURANCE CO.LTD.

Versus

MAHESHBHAI CHIMANLAL SHAH

Appearance:

MR MB BUCH for Petitioner

MR JV DESAI for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE J.R.VORA

Date of decision: 16/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

Being aggrieved by the award dated 4th December 1996 passed by the Commissioner for Workmen's Compensation under the provisions of the Workmen's Compensation Act, 1923, this First Appeal has been filed.

2. Respondent No. 1 was a workman working under respondent No. 2. In the course of performance of his duties he met with an accident and, therefore, he had filed Non-Fatal Application No. 8/93 before the Commissioner for Workmen's Compensation, Surat, under the provisions of the Workmen's Compensation Act praying for a sum of Rs. 93,145/- along with interest at the rate of 12% from the date of the application till the date of deposit of the said amount. By an award dated 4th December 1996, a sum of Rs. 81,535/- along with interest @ 12% from the date of the accident till the date of the deposit and a further sum being 50% of the amount of compensation towards penalty was awarded by the Commissioner for Workmen's Compensation. Being aggrieved by the said award, the present first appeal has been filed.

3. It has been submitted by learned advocate Shri Mayank Buch appearing for the appellant that during the pendency of the First Appeal, the parties to the litigation have settled their dispute. It has been submitted by him that respondent no. 1, who is present in the court, has agreed to accept in all a sum of Rs. 110,000/- from the appellant insurance company.

4. Respondent No. 1, Shri Maheshbhai C. Shah, who is personally present in the court, has also submitted that upon getting legal advice, he has agreed to accept in all a sum of Rs. 110,000/- from the present appellant.

5. In the circumstances, this appeal is allowed to the extent that the appellant shall pay in all a sum of Rs. 110,000/- to respondent No. 1. It has been submitted by learned advocate Shri Buch appearing for the appellant that a sum of Rs. 163,070/- was deposited with the Commissioner for Workmen's Compensation, Surat, and the said amount has been invested in a nationalised/scheduled bank. It is directed that the said deposit shall be encashed prematurely immediately and from the proceeds of the said deposit a sum of Rs. 110,000/- shall be paid to respondent No. 1-Shri M.C. Shah and the balance amount shall be permitted to be withdrawn by the appellant insurance company, preferably before 30th April 2001.

6. The appeal is allowed to the above extent with no order as to costs.

(A.R. Dave, J.)

(J.R. Vora, J.)

(hn)